

The Honorable Marc L. Barreca  
Chapter 13  
Hearing Date: 02/24/2011  
Hearing Time: 9:30 a.m.  
Location: U.S. Courthouse, Room 7106  
700 Stewart Street  
Seattle, WA 98101  
Response Date: 2/17/2011

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON  
SEATTLE DIVISION

In re:

Christopher Roy,  
Alexia J Roy,

Debtors.

Case No. 10-23555-MLB

Chapter 13

OBJECTION TO CONFIRMATION OF  
CHAPTER 13 AMENDED PLAN

Federal National Mortgage Association ("Secured Creditor") objects to Confirmation of the Chapter 13 Amended Plan proposed by ("Debtors") Christopher Roy and Alexia J Roy.

1. Secured Creditor is entitled to receive payments pursuant to a Promissory Note which is secured by a Deed of Trust on the real property (the "Property") commonly known as 7537 15th Avenue SouthWest, Seattle, WA 98106. As of 11/10/2010, the amount in default was \$56,497.08, as described in the Proof of Claim filed by this Secured Creditor on or about 1/28/2011, incurred with respect to the default.

2. Debtors allege in the Amended Plan that the arrears owed to Secured Creditor are in the amount of \$41,250.93; however, the actual amount of arrears is \$56,497.08, as set forth in the Proof of Claim. To cure the pre-petition arrearages of \$56,497.08 over the term of the Amended Plan within 60 months, Secured Creditor must receive a minimum payment of \$941.62 per month from the Debtors through the Amended Plan.

3. According to Debtors' own Schedules I & J, Debtors do not have sufficient additional funds available to cure the arrears over the term of the Amended Plan within 60 months. Therefore, the Amended Plan is not feasible.

4. Debtors' Amended Plan fails to provide for treatment of the arrears, instead relying upon a potential loan modification to cure the arrearage amount. Debtors' Amended Plan also states that if a loan modification is not obtained by 05/31/2011, Debtors will surrender the property and grant relief from stay. Unless and until a loan modification is approved, the Plan should provide for treatment of the arrears and ongoing mortgage payments. Additionally, if debtor intends to surrender and grant relief if a loan mod is not approved by 5/31/11, then there is no rational basis for maintaining the automatic stay so long as no sale occurs prior to that date.

## CONCLUSION

Any Chapter 13 Plan proposed by the Debtors must provide for and eliminate the Objections specified above in order to be reasonable and to comply with applicable provisions of the Bankruptcy Code. Secured Creditor respectfully requests that confirmation of the Chapter 13 Amended Plan as proposed by the Debtors be denied, or in the alternative, be amended to provide for full payoff of the arrearages owed to Secured Creditor.

WHEREFORE, Secured Creditor prays as follows:

1. That confirmation of the Proposed Chapter 13 Amended Plan be denied, or in the alternative, be amended to provide for full payoff of the arrearages owed to Secured Creditor;

2. For attorneys' fees and costs herein,

3. For such other relief as this Court deems proper.

Respectfully submitted,  
McCarthy & Holthus, LLP

/s/ Angela M. Michael, Esq.  
Angela M. Michael, Esq., WSBA #37727  
Attorney for Secured Creditor

**CERTIFICATE OF SERVICE**

On 2/11/2011, I served the foregoing **OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN** on the following individuals by electronic means through the Court's ECF program:

COUNSEL FOR DEBTOR  
Christina Latta Henry  
chenry@seattledebtlaw.com

TRUSTEE  
K Michael Fitzgerald  
courtmail@seattlech13.com

**I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.**

\_\_\_\_\_  
/s/ Amanda Botelho  
Amanda Botelho

On 2/11/2011, I served the foregoing **OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN** on the following individuals by depositing true copies thereof in the United States mail at San Diego, California, enclosed in a sealed envelope, with postage paid, addressed as follows:

DEBTORS  
Christopher Roy  
7537 15th Avenue SouthWest  
Seattle, WA 98106

Alexia J Roy  
7537 15th Avenue SouthWest  
Seattle, WA 98106

UNITED STATES TRUSTEE  
700 Stewart St Ste 5103  
Seattle, WA 98101

**I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.**

\_\_\_\_\_  
/s/ David Fry  
David Fry